

INTERNATIONAL COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

REC'D 28 FEB 2005

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Applicant's or agent's file reference P18672	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).	
International Application No. PCT/AU2003/001419	International Filing Date (day/month/year) 27 October 2003	Priority Date (day/month/year) 25 October 2002
International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ B25B 25/00, E04F 11/18, E04H 17/02		
Applicant VYVYAN-VIVIAN, John, Theodore		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☒ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 25 May 2004	Date of completion of the report 23 February 2005
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer JOHN HO Telephone No. (02) 6283 2329

I. Basis of the report**1. With regard to the elements of the international application:***

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,
pages , as amended (together with any statement) under Article 19,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

II. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be nonobvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos: 42-46

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the ~~claims~~ or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claim Nos. 42-46

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

V. Lack of unity of invention

In response to the invitation to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.
- ☐ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- ☐ complied with.
- ☒ not complied with for the following reasons:

The international application does not comply with the requirements of unity of invention because it does not relate to one invention or to a group of inventions so linked as to form a single general inventive concept. In coming to this conclusion the International Searching Authority has found that there are different inventions as follows:

1. Claims 1-41 are variously directed to a tensioning system for tensioning cables. It is considered that the use of a plurality of cables attached to at least one cable spacing means, providing a support for supporting the cable spacing means and having one or more adjustable positioning members for positioning the cable spacing members relative to the support wherein tension in the cable is adjusted by relative adjustment of the adjustable positioning means comprises a first "special technical feature".
2. Claims 42-46 are directed to a spreader device for bracing apart an upper and lower support for supporting runs of cable therebetween. It is considered that the use of a spreader body having first and second axially movable bodies, a lever pivotally attached to the first body and an engagement portion to force the second body relative to the first body comprises a second "special technical feature".

Since the abovementioned groups of claims do not share any of the technical features identified, a "technical relationship" between the inventions, as defined in PCT rule 13.2 does not exist. Accordingly the international application does not relate to one invention or to a single inventive concept, a priori.

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☐ all parts.
- ☒ the parts relating to claims Nos. 1-41

7. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Statement

Novelty (N)	Claims 38	YES
	Claims 1-37, 39-41	NO
Inventive step (IS)	Claims 38	YES
	Claims 1-37, 39-41	NO
Industrial applicability (IA)	Claims 1-41	YES
	Claims -	NO

2. Citations and explanations (Rule 70.7)

The following documents identified in the International Search Report have been considered for the purposes of this report:

D1 - US 6135424
D2 - US 505781
D3 - US 4190234
D4 - AU 105747 (4273/37)
D5 - GB 2140521

NOVELTY (N): Claims 1-37, 39-41

The use of a tensioning system for a barrier comprising at least one cable spacing member for spacing apart a plurality of runs of cable, a support for supporting the cable spacing means and an adjustable tensioning or positioning means for adjustable positioning of the cable spacing member relative to the support is clearly disclosed by each of the above citations.

For instance, D1 discloses upper and lower rails (6, 7) which could be taken to be the equivalent of the cable support members, *a pair* of blocks (12a) attached to each ends of the cable and *a pair* of tensioning mechanisms (12) located in tubular spindles (8, 10) for adjusting the relative position of the block (12a) relative to the rails (6, 7) for adjusting the tension of the cable. D1 also discloses an adjustable positioning member which is bolt-like (see item 8a) and which protrudes from an external position into an internal region of the support and bracing members (see items 8, 9 and 10).

D1 clearly discloses the invention defined by claims 1-5, 7-19, 21-37, 39-41.

D2 discloses a fencing system having sockets (g) for holding rails (c, d), a wire or metallic ribbon (e) strung between the rails (c, d) and a wire tensioning member attached to the lower rail for tensioning the wire (see page 1 lines 34-65). D2 discloses the invention defined by claims 1-7, 11-14, 16-30 and 32.

D3 discloses a stretcher for tightening wires. The stretcher comprises a pair of angle members (12, 14) and a plurality of wires attached to each of the angle members (12, 14). When in use (see figure 5), the adjusting rods (15A, 15B) are used to adjust the relative position of the angle members (12, 14) with respect to the posts (40, 42). This citation discloses the invention defined by claims 1-14, 16-19, 21-26 and 28-33.

Supplemental Box

To be used when the space in any of the preceding boxes is not sufficient)

Continuation of Box V

D4 discloses a strainer for a gate comprising a pair of supports (8, 9), a plurality of wires attached to each of the supports (8, 9), posts (10, 16) and a winding rod (13) for adjusting the position of the supports (8, 9) with respect to the posts (10, 16). This citation clearly discloses the invention defined by claims 1-14, 16-19, 21-26, 28-33.

D5 discloses a tensioning means for tensioning wires. The tensioning means comprises a first member (2), a second member (3) and screw jacks (4) extending between the members (2, 3). In use the first member is attached to a post whereby the screw jack is operated to adjust the relative position of the second member (3) relative to the post. This citation clearly discloses the invention defined by claims 1-14, 16-19, 21-26 and 28-33.

INVENTIVE STEP (IS): Claims 1-37, 39-41

Claims 1-37, 39-41: These claims also lack an inventive step for the reasons given above.

INDUSTRIAL APPLICABILITY (IS): Claims 1-41

The invention defined in the claims is considered to meet the requirements of Industrial Applicability under Article 33(4) of the PCT because it can be made by, or used in, industry.